

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NOAH WICK on behalf of himself and all
others similarly situated,

Plaintiff,

v.

TWILIO, INC.,

Defendant.

No. 2:16-cv-00914

DECLARATION OF MARK A. GRIFFIN
IN SUPPORT OF OPPOSITION TO
DEFENDANT'S RULE 11 MOTION

I, Mark A. Griffin, hereby declares as follows:

1. I am a partner in the law firm of Keller Rohrbach L.L.P. and one of the attorneys for the Plaintiff in this case. I am a member of the bar of this Court and am competent to testify to the matters stated herein.

2. On July 13, 2016, Plaintiff's counsel participated in a Rule 26(f) conference with Michael Hazzard of Jones Day, one of the attorneys representing Defendant Twilio, Inc. in this action. Plaintiff's counsel raised the fact that Plaintiff was going to file an amended complaint. Plaintiff filed the First Amended Complaint for Violations of the Federal Telephone Consumer Protection Act; Washington Consumer Protection Act; and Washington Commercial Electronic Email Act ("First Amended Complaint") on August 5, 2016 (ECF No. 22). Mr. Hazzard did not mention any intention

DECLARATION OF MARK A. GRIFFIN IN SUPPORT OF
OPPOSITION TO DEFENDANT'S RULE 11 MOTION (16-00914)- 1

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1 to file a Rule 11 motion, either on the filed complaint, or in response to the First Amended Complaint.
2 The first time he mentioned the filing of a Rule 11 motion was on November 18, 2016 after the Second
3 Amended Complaint for Violations of the Federal Telephone Consumer Protection Act; Washington
4 Consumer Protection Act; and Washington Commercial Electronic Email Act ("Second Amended
5 Complaint") was filed on November 15, 2015 (ECF No. 35).
6

7 3. Plaintiff hired a consulting expert in the telecommunications industry to review the
8 Second Amended Complaint ("SAC") and check its factual and technological accuracy. This
9 consulting expert made many proposed revisions that were incorporated into the SAC. I interviewed
10 Plaintiff and elicited additional facts to cure the deficiencies found by the Order regarding its
11 telemarketing allegations. I also consulted with a legal ethics expert to confirm that Plaintiff and
12 undersigned counsel had met their Rule 11 obligations.
13

14 4. Defendant attached a copy of a November 18, 2016 letter from Mr. Hazard as Exhibit
15 D to Twilo Inc.'s Motion For Rule 11 Sanctions ("Rule 11 Motion") (ECF No. 38). Attached hereto
16 as Exhibit 1 is a true and correct copy of my November 22, 2016 letter to Michael Hazzard responding
17 to his letter. Exhibit 1 is not attached to the Rule 11 Motion nor is it mentioned in that motion.
18

19 5. Attached as Exhibit 2 is a true and correct copy of a letter I sent to Mr. Hazzard on
20 December 27, 2016, excluding the copy of my November 22, 2016 letter that was an attachment to
21 that letter. Exhibit 2 is not attached to the Rule 11 Motion nor is it mentioned in that motion.
22

23 6. Exhibit 2 was sent by email to Mr. Hazard, James W. Uthmeier, another attorney at
24 Jones Day, and Duncan Turner, an attorney at Badgley Mullins Turner PLLC, all of the attorneys who
25 have appeared to present Defendant in this matter. Attached as Exhibit 3 hereto is a true and correct
26 copy of the email that was sent to these attorneys transmitting my December 27, 2016 letter showing
27 that the letter was sent at 11:47 AM on December 27, 2017.
28

9. Attached as Exhibit 4 is a true and correct copy of Twilio Inc.'s Motion for Sanctions filed in *Bauman v. Saxe Management LLC et al.*, No. 14-01125 RBF-PAL (D. Nev. filed July 9, 2014). As of the time of this declaration, the court has not ruled on this motion.

DATED this 9th day of January, 2017 at Seattle, Washington.

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CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2017, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, causing it to be served on all registered users:

KELLER ROHRBACK, LLP

By s/ Karin B. Swope
Karin B. Swope, WSBA #24015